

EXHIBIT 4

EXHIBIT 4

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

~~~~~

DONALD AGEE, JR. et al.,

Plaintiffs,

vs. Case No.

1:22-CV-00272-PLM-RMK-JTN

JOCELYN BENSON, et al.,

Defendants.

~~~~~

Zoom Videoconference Deposition of
LaMAR LEMMONS III

April 20, 2023

10:03 a.m.

Witness Location:

Clark Hill

500 Woodward Avenue, Suite 3500

Detroit, Michigan

Buster Beck, RPR

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4 Independent Citizens Redistricting
5 Commission, Douglas Clark, Juanita Curry,
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7 Lett, Brittni Kellom, Cynthia Orton, M.C.
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3 On behalf of the Defendants Michigan
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5 Commission, Douglas Clark, Juanita Curry,
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7 Lett, Brittni Kellom, Cynthia Orton, M.C.
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3 On behalf of the Defendants Michigan
4 Independent Citizens Redistricting
5 Commission, Douglas Clark, Juanita Curry,
6 Anthony Eid, Rhonda Lange, Steven Terry
7 Lett, Brittni Kellom, Cynthia Orton, M.C.
8 Rothhorn, Rebecca Szetela, Janice
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1		INDEX OF EXHIBITS	
2	NUMBER	DESCRIPTION	MARKED
3	Exhibit 1	A document entitled; "NOTICE .	9
4		OF DEPOSITION OF LAMAR	
5	Exhibit 2	LEMMONS III"	
6		A document entitled; "FIRST ..	24
7	Exhibit 3	AMENDED COMPLAINT FOR	
8		DECLARATORY RELIEF"	
9	Exhibit 4	A document entitled;	26
10		"AFFIDAVIT OF LAMAR LEMMONS	
11	Exhibit 5	III"	
12		A 72-page document beginning .	28
13	Exhibit 6	with a cover page entitled;	
14		"DOC 05"	
15	Exhibit 7	A 15-page document beginning .	34
16		with a cover page entitled;	
17	Exhibit 8	"DOC 06"	
18		A seven-page document	38
19	Exhibit 9	beginning with a cover page	
20		entitled; "DOC 08"	
21		A ten-page document	83
22		entitled; "Michigan	
23		Independent Citizens	
24		Redistricting Commission,"	
25		dated October 11th, 2021	
	Exhibit 8	A two-page article from	98
		Politico	
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		beginning with a cover page	
		entitled; "DOC 02"	

1 LaMAR LEMMONS III, of lawful age,
2 called for examination, as provided by the
3 Federal Rules of Civil Procedure, being by me
4 first duly sworn, as hereinafter certified,
5 deposed and said as follows:

6 EXAMINATION OF LaMAR LEMMONS III
7 BY MR. LEWIS:

8 Q. Good morning, Mr. Lemmons. It is
9 nice to meet you remotely today. My name is
10 Patrick Lewis and I represent the Independent
11 Citizens Redistricting Commission and the
12 individual commissioners. With me on Zoom are
13 my colleagues Nate Fink from Fink Bressack, and
14 Dima Atiya, also from Baker Hostetler. I'll be
15 the one asking you questions this morning.

16 So Mr. Lemmons, just to get
17 started, are you -- can you identify your name
18 and your current address for the record?

19 A. Certainly. My name is LaMar, L-A,
20 capital M, A-R. Lemmons, L-E-M-M-O-N-S. My
21 address is 8523 Outer Drive, East, Detroit,
22 Michigan 48213.

23 Q. All right. Thank you very much.
24 And your name is pronounced
25 Lemmons?

1 Q. When you used that particular
2 strategy, what door open rates were you able to
3 achieve?

4 A. A higher rate. I don't remember
5 off the top of my head. Did I reference it
6 there? I do know it was higher.

7 And particularly, sometimes the
8 white canvasser's on one side of the street and
9 he's getting a higher rate than the black one
10 on the other side. But as a composite, when
11 they go to the door together, the white open
12 door rate is higher. So if you want a higher
13 rate, you can send a black and a white
14 together. If you send just across the street,
15 there's a difference in the response rate.

16 Q. But you don't know what that rate
17 is as you sit here today?

18 A. I don't know what that rate is, but
19 since you asked me for my experience, that is
20 the experience.

21 Q. Okay. Now, Mr. Lemmons, when
22 someone doesn't answer their door, you can't
23 know why the person chose not to, correct?

24 A. Absolutely.

25 Q. Okay. And different people might

1 have different reasons to decline to open a
2 door, right?

3 A. That is correct.

4 Q. So some people might not want to
5 speak with strangers, for example, right?

6 A. Correct.

7 Q. Some people might not want to be
8 canvassed by political candidates, right?

9 A. Correct.

10 Q. Some people might just be
11 preoccupied with something going in their
12 houses at the moment your worker knocks,
13 correct?

14 A. Correct.

15 Q. Are there other ways your campaigns
16 can message to voters besides knocking their
17 doors?

18 A. Yes.

19 Q. Okay. And can those other ways be
20 effective means of communicating with voters?

21 A. Yes.

22 Q. Okay. So I want to jump ahead now
23 to paragraphs 17, 18 appearing on page five. I
24 have them up on the screen, but let me know
25 when you get there.

1 Q. And candidate personalities can
2 differ, right?

3 A. Correct.

4 Q. Okay. And those factors can
5 sometimes cause black voters to perhaps not
6 prefer a black candidate; is that right?

7 A. That's correct.

8 Q. Okay. I'd like now to turn to
9 paragraph 18, right below 17 there on page
10 five. I had a few questions about it.

11 Sir, you mention the term "Black
12 democrat primary candidates of choice." What
13 does that term mean to you?

14 A. It means that there are -- when
15 there's a black candidate in the race, the
16 voters -- the black voter tends to want to
17 support that black candidate based on that in
18 most cases.

19 Q. Okay. And how do you determine who
20 the black primary candidate of choice is?

21 A. Well, I can't determine in most
22 cases if there are multiple candidates, but
23 when there is a black candidate and a white
24 candidate, it is clear that the general
25 preference by the black community is to have a

1 black candidate with similar experience in the
2 primary.

3 Q. Okay. And do you base that opinion
4 on the data that you've looked at over the
5 years?

6 A. I've based that on my experience.
7 It is my experience that I'm referring to. I
8 base it on my experience. That's correct. And
9 the corroborating data, as you know.

10 Q. And the data.

11 So you're -- and your experience is
12 looking at who won and lost in different
13 elections, right?

14 A. That's some of it, yes.

15 Q. Okay. All right. So you're
16 looking at -- so your experience is informed by
17 looking at election results, right?

18 A. Election results and election
19 campaigning.

20 Q. Okay. So as you're going out to
21 canvas, how voters are responding to your
22 candidate's messages; is that fair?

23 A. Repeat the question, please.

24 Q. So when you say you're looking at
25 other evidence or other data to support your

1 experience, what other things do you look at to
2 inform your experience?

3 A. We look at the response of the
4 voter, juxtaposed to the election results. We
5 look at things like the name. Sometimes the
6 black candidate by name is not distinguishable
7 from a white candidate. So if there's a total
8 unfamiliarity with both candidates, the person
9 who has the most black-sounding name is likely
10 to get a greater -- in the primary, referring
11 to the primaries -- is a lot likely to get the
12 vote.

13 So sometimes a white candidate with
14 a black-sounding name and a black candidate
15 with a white-sounding name, and not having the
16 resources or the knowledge as to how to reach
17 their voters and make that distinction
18 clarified, I've seen a white candidate win the
19 black area, not because they were the candidate
20 of choice, but because they were presumed to be
21 black. And vice versa, by the way.

22 Q. Okay. All right. And so, that
23 experience, you're looking at -- you're looking
24 at how those elections turned out, right?
25 You're looking at how people vote in those

1 races, right?

2 A. Looking at how people voted and why
3 they voted. So we also do an analysis
4 afterwards as to why and how. Because it's
5 always the next race.

6 Q. And so, as you're going through
7 that analysis, you're looking at what your
8 canvassers are reporting back to you, right?

9 A. Yes.

10 Q. Okay. And you're looking at those
11 sheets that they turn in, those statics that
12 they generate, correct?

13 A. I am looking at those, too, yes.

14 Q. Okay. So you're basing -- your
15 experience goes beyond just personally
16 individual voters that you're speaking to; is
17 that right?

18 A. Rephrase the question.

19 Q. Sure.

20 So when you talk about your
21 experience, you're talking about experience
22 that goes beyond just individual voters that
23 you personally speak to, correct?

24 A. Absolutely. Absolutely.

25 Q. Understood. All right.

1 period. Every campaign does.

2 Q. Okay. And VAN -- just to make sure
3 I understand this, is VAN a -- that's a file
4 that's created by the Michigan Democratic
5 party; is that correct?

6 A. That's correct.

7 Q. I see.

8 So it's not an official -- it's put
9 out by the political party, not by the State of
10 Michigan as a government, correct?

11 A. Correct.

12 Q. Okay. So that file has additional
13 information in it beyond what would be
14 maintained, like, for example, at the Board of
15 Elections, correct?

16 A. Correct.

17 Q. Okay.

18 A. Wait, wait. The Board of Elections
19 you can go -- if you pull the file, it will
20 have the race.

21 Q. Okay. All right.

22 A. It's that extensive.

23 Q. But I think you were also
24 describing -- so when you're measuring voter
25 turnout by race, are you relying on sort of

1 using that census data and sort of trying to
2 determine using that and the racial breakdowns
3 of different neighborhoods to help determine
4 voter turnout by race?

5 A. Absolutely, yes.

6 Q. And you understand there's
7 statistical techniques that are used to
8 estimate voter turnout by race?

9 A. Yes.

10 Q. Okay. And did you use any of those
11 statistical techniques in this case?

12 A. Yes.

13 Q. Which ones -- which techniques did
14 you use?

15 A. I used, again, the VAN and
16 experience and observations.

17 Q. Okay.

18 A. And the census.

19 Q. Okay. But you don't -- in your
20 affidavit anywhere, you don't report -- you
21 don't report what those turnout rates were for
22 a specific election, right?

23 A. No, I don't.

24 Q. I see. Okay.

25 So I'd like to now move on to

1 specific elections were good ones for you to
2 analyze for your affidavit?

3 A. Well, some of them, as I said, I
4 was directly involved.

5 Q. Okay.

6 A. And others, I saw the -- I observed
7 -- I had a keen interest in those races, to see
8 what the outcome would be.

9 Q. And all of these are in
10 metropolitan Detroit, correct?

11 A. All of them intersect with the City
12 of Detroit.

13 Q. Great. Okay.

14 So then, if we go back to paragraph
15 28 at the bottom of page seven, is that where
16 you begin to discuss your analysis of those
17 elections?

18 A. Yes.

19 Q. And I understand you've had
20 training and experience in analyzing elections,
21 correct?

22 A. Correct.

23 Q. And did that training and
24 experience help you conduct the analysis you
25 did of these 2022 primaries?

1 A. It did.

2 Q. And would you agree most people
3 wouldn't have the ability to analyze elections
4 in an accurate way without that training and
5 experience?

6 MR. FLEMING: I would object to the
7 form of the question as it calls for
8 speculation.

9 But you can answer.

10 A. I would say that most people would
11 not have the experience. Not necessarily the
12 training. There's training, as I referred to
13 earlier, some autodactical [sic] training that
14 one can do by learning, or empirical training.
15 I would say my empirical or my experience is
16 the guiding reference here.

17 Q. So I'd like to start with your
18 analysis here of Senate District 8 in
19 paragraphs 28 and 29. And specifically in
20 paragraph 28, you discuss how the northern and
21 southern portions of the district are, quote,
22 also characterized by starkly different
23 demographics, communities of interest and
24 legislative priorities. Sir, what are the
25 legislative priorities of the northern portions

1 will jump in the race.

2 Q. I see.

3 And many factors can influence when
4 there's a candidate of choice, correct?

5 A. Absolutely.

6 Q. Okay. And it's much more than just
7 looking at just the bare percentage of, you
8 know, that BVAP number, correct?

9 A. Restate the question.

10 Q. Sure.

11 So the things that can lead, for
12 example, to black community leaders determining
13 the candidate of choice for a district can go
14 well beyond just the percentage of black voting
15 age population in that district, correct?

16 A. Possibly, yes.

17 Q. Okay. All right. So I'd like to
18 move on now to Senate District 11. Bottom of
19 page nine, paragraph 33. And here you mention
20 -- you identify Veronica Klinefelt as the white
21 candidate of choice in this election. Do you
22 agree with that?

23 A. I agree 100 percent.

24 Q. Okay. Do you know how many black
25 voters voted for her?

1 A. I don't remember off the top of my
2 head. But you should know, I supported
3 Klinefelt.

4 Q. You supported her. Why did you
5 support her?

6 A. I supported Klinefelt because I had
7 more knowledge as to the other black candidate.
8 But despite my support and support of community
9 leaders, we didn't spend any money to really
10 let people know that the black candidate should
11 not be the candidate of choice. So she
12 prevailed overwhelmingly in the black
13 community.

14 Q. I see.

15 A. And that black candidate of
16 choice -- just a little add -- has currently --
17 and is innocent until proven guilty -- but has
18 currently been indicted. But she still
19 prevailed over Klinefelt in the black
20 community.

21 Q. In this -- in -- but in your -- in
22 paragraph 33, you don't identify a black
23 candidate of choice, correct?

24 A. That's correct.

25 Q. Okay.

1 A. She was the black candidate -- the
2 default black candidate of choice.

3 Q. I see.

4 But voters -- but black voters did
5 not choose her, correct?

6 A. Black voters did choose her. She
7 was already an elected official. She was the
8 mayor of Eastpointe.

9 Q. Okay. But I'm saying for this
10 particular race, Senate District 11, 2022
11 primary.

12 A. There were some black voters that
13 chose her. What we decided earlier on was to
14 keep other black candidates out as not to
15 dilute the black vote. And after interviewing
16 the leadership -- which I consider myself part
17 of -- of the black community in that area --
18 which had -- area that I had represented as a
19 state representative by the way -- the portion,
20 the Detroit portion anyway, we decided that
21 Klinefelt would have been a better choice than
22 Monique Owens.

23 But the black community decided
24 that Monique Owens was their candidate. And
25 despite our support, which didn't move the

1 numbers, Monique Owens, the black people voted
2 for Monique Owens, and the white people voted
3 for Klinefelt as a collective.

4 Q. Okay.

5 A. Overwhelmingly so in both cases.

6 Q. And what data do you rely on to
7 form the view that the black community in that
8 district voted for Ms. Owens?

9 A. The census data -- the precinct
10 data. I'm sorry. The precinct data where the
11 communities are overwhelmingly black.

12 Q. Okay. I'd like now to turn to
13 paragraph 34 on page ten. And here you talk
14 about Senate District 6. Do you see that?

15 A. I do.

16 Q. This was the primary between state
17 representative Mary Cavanaugh and Darryl Brown
18 and others; is that correct?

19 A. That's correct.

20 Q. Okay. And how did you -- and you
21 determined that Representative Cavanaugh was
22 the clear white candidate of choice, correct?

23 A. No. She was a white candidate of
24 choice.

25 Q. A white candidate of choice. Okay.

REPORTER'S CERTIFICATE

The State of Ohio,)

SS:

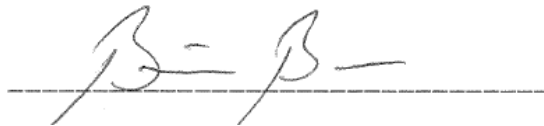
County of Cuyahoga.)

I, Buster Beck, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, LaMAR LEMMONS III, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

1 I do further certify that I am not
2 a relative, counsel or attorney for either
3 party, or otherwise interested in the event of
4 this action.

5 IN WITNESS WHEREOF, I have hereunto
6 set my hand and affixed my seal of office at
7 Cleveland, Ohio, on this 27th day of
8 April, 2023.

9
10
11
12 
13

14 Buster Beck, Notary Public
15 within and for the State of Ohio
16

17 My commission expires February 22, 2025.
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Page 152

Veritext Legal Solutions
1100 Superior Ave
Suite 1820
Cleveland, Ohio 44114
Phone: 216-523-1313

April 27, 2023

To: JAMES J. FLEMING

Case Name: Agee, Jr., Donald, et al. v. Benson, Jocelyn, et al.

Veritext Reference Number: 5871024

Witness: LaMar Lemmons, III Deposition Date: 4/20/2023

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness review the transcript and note any changes or corrections on the included errata sheet, indicating the page, line number, change, and the reason for the change. Have the witness' signature notarized and forward the completed page(s) back to us at the Production address shown above, or email to production-midwest@veritext.com.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,
Production Department

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DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 5871024

CASE NAME: Agee, Jr., Donald, et al. v. Benson, Jocelyn, et al.

DATE OF DEPOSITION: 4/20/2023

WITNESS' NAME: LaMar Lemmons, III

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have made no changes to the testimony as transcribed by the court reporter.

Date LaMar Lemmons, III

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;

They signed the foregoing Sworn Statement; and

Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal

this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 5871024

CASE NAME: Agee, Jr., Donald, et al. v. Benson, Jocelyn, et al.

DATE OF DEPOSITION: 4/20/2023

WITNESS' NAME: LaMar Lemmons, III

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Date

LaMar Lemmons, III

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;

They have listed all of their corrections in the appended Errata Sheet;

They signed the foregoing Sworn Statement; and

Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

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ERRATA SHEET
VERITEXT LEGAL SOLUTIONS MIDWEST
ASSIGNMENT NO: 5871024

PAGE/LINE(S) /	CHANGE	/REASON
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Date LaMar Lemmons, III
SUBSCRIBED AND SWORN TO BEFORE ME THIS _____
DAY OF _____, 20____ .

Notary Public

Commission Expiration Date